

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kirk Christofferson,

Civil File No. _____

Plaintiff,

v.

The Kroger Co.

Defendant.

COMPLAINT AND JURY DEMAND

For his Complaint against Defendant above-named, Plaintiff Kirk Christofferson states and alleges as follows:

PARTIES

1. Plaintiff Christofferson is an adult male who is 55 years old. At all times relevant to this action he has resided in Rochester, Minnesota.

2. Defendant The Kroger Co. ("Kroger"), is an Ohio corporation in the business of operating the largest grocery chain in the country, among other things. On information and belief, Kroger's principal place of business is located at 1014 Vine Street, Cincinnati, Ohio 45202.

JURISDICTION

3. This is an action for monetary relief for damages caused by Defendant's conduct under the Minnesota Human Rights Act, Minn. Stat. § 363A.01 *et seq.* (the

“MHRA”). This Court has jurisdiction of this matter under 28 U.S.C. § 1331 because the amount in controversy exceeds \$75,000 and because complete diversity exists between the parties. Venue lies properly in this district under 28 U.S.C. § 1391 because a substantial part of the events and omissions giving rise to Plaintiff’s claims occurred in this district.

GENERAL ALLEGATIONS

4. Mr. Christofferson worked at Kroger as a production line operator for more than 36 years at Pace Dairy Foods, located at 2700 Valleyhigh Drive Northwest Rochester, Minnesota 55901, until Kroger terminated his employment on or around May 9, 2011. Pace Dairy Foods is owned by Kroger and is Kroger’s “alter ego.” Mr. Christofferson generally met or exceeded job performance expectations during his period of employment.

5. On or around May 9, 2011, Kroger terminated Mr. Christofferson for reasons that are mere pretext for discrimination.

6. Kroger treated Mr. Christofferson unfairly compared to the way it treated other similarly situated employees who are not members of his protected class. Specifically, younger employees were not disciplined (or were disciplined but not terminated) for the sort of behavior which is listed on Mr. Christofferson’s termination documents.

COUNT I
Violation of the MHRA – Age Discrimination

7. Plaintiff restates the preceding paragraphs as though fully incorporated herein.

8. Plaintiff is 55 years old.

9. Plaintiff was qualified for his position at Kroger.

10. Kroger terminated Plaintiff's employment.

11. Kroger treated similarly-situated employees who are not members of Plaintiff's protected class differently than it treated him.

12. Kroger's decision to terminate Plaintiff's employment otherwise occurred under circumstances that give rise to an inference of unlawful discrimination.

13. Kroger assigned a younger person to do Plaintiff's work.

14. Plaintiff suffered damages as a result of Kroger's conduct.

JURY DEMAND

15. Plaintiff demands a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

1. Enter judgment in Plaintiff's favor on his claims against Defendant in an amount exceeding \$75,000, the exact amount to be proven at trial;
2. Award Plaintiff equitable damages, the exact amount to be proven at trial;
3. Award Plaintiff reasonable expenses incurred in this litigation, including attorney and expert fees;

4. Award treble damages as allowed by the MHRA;
5. Assess a civil penalty, payable to the State of Minnesota, pursuant to the MHRA;
6. Award Plaintiff punitive damages, or, alternatively, grant Plaintiff leave to amend the Complaint to include a claim for punitive damages;
7. Grant any other relief the Court deems just and equitable.

Dated: June 14, 2011

s/Joshua R. Williams
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